

SENATE BILL NO. 16

INTRODUCED BY TROPILA

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE USE OF STATE FUNDS FOR PUBLIC SERVICE ANNOUNCEMENTS FEATURING A STATE OFFICER WHO IS A CANDIDATE FOR OFFICE; AND AMENDING SECTION 2-2-121, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-2-121, MCA, is amended to read:

"2-2-121. Rules of conduct for public officers and public employees. (1) Proof of commission of any act enumerated in subsection (2) is proof that the actor has breached a public duty.

(2) A public officer or a public employee may not:

(a) use public time, facilities, equipment, supplies, personnel, or funds for the officer's or employee's private business purposes;

(b) engage in a substantial financial transaction for the officer's or employee's private business purposes with a person whom the officer or employee inspects or supervises in the course of official duties;

(c) assist any person for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from the officer's or employee's agency;

(d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic benefit from any agency;

(e) perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which the officer or employee either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent; or

(f) solicit or accept employment, or engage in negotiations or meetings to consider employment, with a person whom the officer or employee regulates in the course of official duties without first giving written notification to the officer's or employee's supervisor and department director.

(3) (a) A public officer or public employee may not use public time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue unless the use is:

1 (i) authorized by law; or

2 (ii) properly incidental to another activity required or authorized by law, such as the function of an elected
3 public officer, the officer's staff, or the legislative staff in the normal course of duties.

4 (b) As used in this subsection (3), "properly incidental to another activity required or authorized by law"
5 does not include any activities related to solicitation of support for or opposition to the nomination or election of
6 a person to public office or political committees organized to support or oppose a candidate or candidates for
7 public office. With respect to ballot issues, properly incidental activities are restricted to the activities of a public
8 officer, the public officer's staff, or legislative staff related to determining the impact of passage or failure of a
9 ballot issue on state or local government operations.

10 (c) This subsection (3) is not intended to restrict the right of a public officer or public employee to
11 express personal political views.

12 (4) A state officer who is a candidate, as defined in 13-1-101(6)(A), may not use or permit the use of
13 state funds for any advertisement or public service announcement in a newspaper, on radio, or on television that
14 contains the state officer's CANDIDATE'S name, picture, or voice except in the case of a state or national
15 emergency and then only if the announcement is reasonably necessary to that state officer's THE CANDIDATE'S
16 official functions.

17 ~~(4)(5)~~ A public officer or public employee may not participate in a proceeding when an organization,
18 other than an organization or association of local government officials, of which the public officer or public
19 employee is an officer or director is:

20 (a) involved in a proceeding before the employing agency that is within the scope of the public officer's
21 or public employee's job duties; or

22 (b) attempting to influence a local, state, or federal proceeding in which the public officer or public
23 employee represents the state or local government.

24 ~~(5)(6)~~ A public officer or public employee may not engage in any activity, including lobbying, as defined
25 in 5-7-102, on behalf of an organization, other than an organization or association of local government officials,
26 of which the public officer or public employee is a member while performing the public officer's or public
27 employee's job duties. The provisions of this subsection do not prohibit a public officer or public employee from
28 performing charitable fundraising activities if approved by the public officer's or public employee's supervisor
29 or authorized by law.

30 ~~(6)(7)~~ A department head or a member of a quasi-judicial or rulemaking board may perform an official

1 act notwithstanding the provisions of subsection (2)(e) if participation is necessary to the administration of a
2 statute and if the person complies with the disclosure procedures under 2-2-131.

3 ~~(7)~~(8) Subsection (2)(d) does not apply to a member of a board, commission, council, or committee
4 unless the member is also a full-time public employee.

5 ~~(8)~~(9) Subsections (2)(b) and (2)(e) do not prevent a member of the governing body of a local
6 government from performing an official act when the member's participation is necessary to obtain a quorum
7 or to otherwise enable the body to act. The member shall disclose the interest creating the appearance of
8 impropriety prior to performing the official act."

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